IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.598 OF 2007

Mr.Yashwant Tukaram Kadam ..Applicant

Vs.

State of Maharashtra ..Respondents

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Mr.Amit Sale Advocate for Applicant
Mr.S.S.Pednekar A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : APRIL 3, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking bail in C.R.No.836 of 2006 of Swargate Police Station Pune. The said case is mainly under Section 376 of IPC.

3. It is the prosecution case that the applicant kidnapped the prosecutrix and thereafter committed rape on her. On perusal of papers, it is revealed that the prosecutrix knew the applicant very well since 2 to 3 years prior to the incident. The prosecutrix has stated that on 10.11.2006 at about

8.00 p.m. she was returning home with her friends i.e. Rupa and one other girl, at that time, the applicant called her. The prosecutrix told these two girls to go home and she would follow them later and she went with the applicant. She sat on the cycle of the applicant and they went to Dandekarpul chowk. While they were returning, the applicant met one another person. The applicant requested that person for keys of flat. Then the applicant told the prosecutrix that he wanted to discuss some important matter with her and they would go to the flat and discuss the same. The prosecutrix accompanied the applicant to the said flat. When they reached the flat, it was 12.45 midnight. It is the case of the prosecutrix that in the said flat, the applicant committed rape on her. The prosecutrix was examined on 12.11.2006 at 2.00 a.m. No injury was found on the body of the prosecutrix to suggest any resistance nor is it the case of the prosecutrix that she made any attempt to escape or called out for help. The history as recorded in the medical certificate shows that the prosecutrix knew the accused since 2 to 3 years and they had a love affair. The opinion of the Doctor is that it is difficult to comment whether the

patient had penetrative vaginal intercourse or not. No doubt, the prosecutrix was 15 and half years old at the time of incident. However, looking to all the above facts, I am inclined to grant bail to the applicant.

4. In connection with C.R.No.836 of 2006 of Swargate Police Station, Pune, the applicant to be released on bail in the sum of Rs.20,000/- (Rs.Twenty thousand only) with one or two sureties to make up the said amount. The applicant shall report to Swargate Police Station, Pune once in a month till the conclusion of trial.

5. Application is disposed of.

[V.K.Tahilramani, J.]